



Broadcasting Decision CRTC 2010-754

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Route reference: 2010-295

Ottawa, 13 October 2010

Colba.Net Inc.

Montréal Island, Quebec

Application 2010-0418-4, received 4 March 2010

Public Hearing in the National Capital Region

19 July 2010

Class 1 terrestrial broadcasting distribution undertaking to serve Montréal Island

*The Commission **approves** the application by Colba.Net Inc. for a broadcasting licence to operate a Class 1 terrestrial broadcasting distribution undertaking to serve Montréal Island.*

The application

1. The Commission received an application by Colba.Net Inc. (Colba.Net) for a broadcasting licence to operate a Class 1 terrestrial broadcasting distribution undertaking (BDU) to serve Montréal Island.
2. Colba.Net is a corporation controlled by Motionsphere Inc., which in turn is controlled by Mr. Joseph Bassili, as trustee for Fiducie Bassili.
3. Colba.Net also requested authorization to distribute, on a digital discretionary basis, any of the distant Canadian television signals set out in the *List of Part 3 Eligible Satellite Services* and a second set of signals that provides the programming of the four U.S. commercial networks (CBS, NBC, ABC, FOX) and the non-commercial network PBS (referred to as the U.S. 4+1 signals).
4. In addition, Colba.Net stated that it would accept a condition of licence requiring that it provide one or more simple means of accessing described programming, whether in an open or embedded format. The applicant also committed to meet the requirements regarding customer service and information set out in Broadcasting and Telecom Regulatory Policy 2009-430 (the Accessibility Policy).
5. The Commission received an intervention offering general comments from Canwest Television Limited Partnership (Canwest),¹ licensee of the Global television stations.

¹ Canwest Television GP Inc. (the general partner) and Canwest Media Inc. (the limited partner), carrying on business as Canwest Television Limited Partnership.

This intervention and the applicant's reply are available on the Commission's website at www.crtc.gc.ca under "Public Proceedings."

Commission's analysis and determinations

6. After examining the application in light of the applicable regulations and policies and taking into account the intervention received and the applicant's reply, the Commission considers that the issue to be addressed in its determinations relates to the distribution of the priority service CKMI-TV (Global) Montréal.
7. In its intervention, Canwest indicated that its station CKMI-TV, a priority service that must be distributed on the basic service pursuant to section 17 of the *Broadcasting Distribution Regulations* (the Regulations), was omitted from Colba.Net's distribution grid. Canwest was of the view that the station was inadvertently omitted and sought confirmation that Colba.Net intended to distribute CKMI-TV on the basic service.
8. Colba.Net replied that it had indeed inadvertently omitted CKMI-TV from its distribution grid and that the station would be distributed through fibre on its basic service.
9. The Commission is satisfied with the applicant's reply to the intervention and reminds Colba.Net that pursuant to section 17 of the Regulations, it would be required to distribute the programming of all local, regional and extra-regional priority services on its basic service.
10. In light of the above, the Commission **approves** the application by Colba.Net inc. for a broadcasting licence to operate a Class 1 terrestrial broadcasting distribution undertaking to serve Montréal Island. The operation of this undertaking will be regulated pursuant to the Regulations. The licence will be subject to the **conditions** specified therein, as well as to the **conditions** set out in the appendix to this decision.

Distribution of distant Canadian television signals and a second set of U.S. 4+1 signals

11. The Commission has already authorized BDUs to distribute distant Canadian signals and a second set of U.S. 4+1 signals on a digital discretionary basis, provided that the licensee adhere to the requirements regarding non-simultaneous program deletion set out in section 43 of the Regulations.
12. The Commission may suspend the application of this provision for signals to be distributed upon its approval of an executed agreement between the licensee and broadcasters. The agreement must deal with issues related to the protection of program rights arising in connection with the discretionary carriage of a second set of U.S. 4+1 signals and of distant Canadian television signals solely on the licensee's digital service.

13. The Commission considers that the authorization requested by the applicant is consistent with authorizations previously granted by the Commission in similar cases. In light of the foregoing, the Commission authorizes Colba.Net to distribute distant Canadian signals and a second set of U.S. 4+1 signals on a digital discretionary basis. A **condition of licence** to that effect is set out in the appendix to this decision.

General authorizations for broadcasting distribution undertakings

14. The Commission notes that pursuant to the conditions specified in the licence and to Broadcasting Regulatory Policy 2009-546, licensees are also authorized to distribute any service and to undertake any activity authorized in that regulatory policy, as amended from time to time, under the terms and conditions set out therein.

Implementation of the Commission's determinations regarding accessibility of services

15. The Accessibility Policy sets out the Commission's policy determinations regarding the accessibility of telecommunications and broadcasting services to persons with disabilities.
16. As indicated above, Colba.Net stated that it was prepared to accept a condition of licence requiring it to provide one or more simple means of accessing described programming, whether in an open or embedded format. Those means must require little or no visual acuity. A **condition of licence** to that effect is set out in the appendix to this decision.
17. In addition, consistent with the Accessibility Policy, the Commission expects Colba.Net to ensure that subscribers are able to identify programming with described video in the electronic program guide and to make information available in alternative formats to subscribers regarding, among other things, the programming and services offered and the channel line-up.
18. The Commission further imposes a **condition of licence** regarding the training of customer service representatives to achieve the objectives set out in the Accessibility Policy.
19. The Commission notes that it may impose further conditions of licence respecting accessibility matters five years into the licence term, if deemed appropriate.

Local digital television signals

20. The Commission reminds the applicant that it must provision its network in such a way as to be able to provide the high definition signals of all stations received over-the-air in the Montréal Island licensed area to its entire subscriber base, without exception.

Mandatory distribution of 9(1)(h) services

21. The Commission reminds the applicant that as a Class 1 BDU, it is required to distribute within its licensed area all services that must be distributed on the basic service of distribution undertakings pursuant to section 9(1)(h) of the *Broadcasting Act*.

Secretary General

Related documents

- *General authorizations for broadcasting distribution undertakings*, Broadcasting Regulatory Policy CRTC 2009-546, 31 August 2009
- *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009

* *This decision is to be appended to the licence.*

Appendix to Broadcasting Decision CRTC 2010-754

Terms, conditions of licence, expectations and encouragement

Terms

Issuance of the broadcasting licence to operate a Class 1 terrestrial broadcasting distribution undertaking to serve Montréal Island, Quebec

The operation of this undertaking will be regulated pursuant to the *Broadcasting Distribution Regulations* and all related policies.

The licence will expire 31 August 2017.

A licence will be issued once the applicant has informed the Commission in writing that it is prepared to commence operations. The undertaking must be operational at the earliest possible date and in any event no later than 24 months from the date of this decision, unless a request for an extension of time is approved by the Commission before 13 October 2012. In order to ensure that such a request is processed in a timely manner, it should be submitted at least 60 days before that date.

Further, a licence will only be issued once the applicant has filed, at the same time it informs the Commission that it is ready to commence operations, a website address where its distribution grid is posted.

Conditions of licence

1. The licensee is authorized to distribute the following signals on a digital discretionary basis:
 - any of the distant Canadian television signals set out in the *List of Part 3 eligible satellite services*; and
 - a second set of signals that provides the programming of the four U.S. commercial networks (CBS, NBC, ABC, FOX) and the non-commercial PBS network (hereafter referred to as the U.S. 4+1 signals).

The distribution on a discretionary basis on the licensee's digital service of a second set of U.S. 4+1 signals and distant Canadian signals is subject to the provision that the licensee adhere to the requirements regarding non-simultaneous program deletion set out in section 43 of the *Broadcasting Distribution Regulations*. The Commission may suspend the application of this provision, with respect to the signals to be distributed, upon its approval of an executed agreement between the licensee and broadcasters. Such an agreement must deal with issues related to the protection of program rights arising in connection with the discretionary carriage of a second set of U.S. 4+1 signals and distant Canadian signals solely on the licensee's digital service.

The Commission reminds the licensee that the requirements set out in section 30 of the Regulations regarding simultaneous substitution apply also in the case of U.S. 4+1 signals and distant Canadian signals.

2. The licensee shall provide one or more simple means of accessing described programming, whether in an open or embedded format, that requires little or no visual acuity.
3. The licensee shall ensure that its customer service representatives are trained to address requests for information from persons with disabilities, whether these enquiries relate to products and services for persons with disabilities or general questions (e.g. billing).

Expectations

The Commission expects the licensee to ensure that subscribers are able to identify programming with described video in the electronic program guide.

The Commission expects the licensee to make information available in alternative formats to subscribers regarding, among other things, the programming and services offered and the channel line-up.

Encouragement

The Commission encourages the licensee to ensure that its set-top boxes are accessible to subscribers with vision and fine motor skill disabilities.

Employment equity

In accordance with *Implementation of an employment equity policy*, Public Notice CRTC 1992-59, 1 September 1992, the Commission encourages the licensee to consider employment equity issues in its hiring practices and in all other aspects of its management of human resources.